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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

The House of Representatives amended and sent to the Senate H.4805, which concerns the release of sex offender registry information to the public. The bill provides that a person may request a list of registered sex offenders residing in a city, county, or zip code zone or a list of all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED if the person requesting the information provides the name or address of the person about whom the information is sought. SLED must provide the person making the request with the full names of the requested registered sex offenders, any aliases, any other physical identifying characteristics, each offender's date of birth, a current home address, the offense for which the offender was required to register, and the date, city, and state of conviction. The bill also adds an additional requirement for offenders determined to be sexually violent predators. While current law requires a person required to register to do so annually, this bill requires a person adjudicated as a sexually violent predator to verify registration and be photographed by the sheriff's department in the county in which he resides every 90 days. The bill also addresses the release of information about juveniles (for certain offenses, the information concerning juveniles must be released to the public; for lesser offenses, the information must be made available, upon request, only to victims, schools, day care centers, and to organizations that primarily serve children). A person who commits a criminal offense using information from the sex offender registry disclosed to him, upon conviction, must be punished as follows: for a misdemeanor offense, the maximum fine prescribed by law for the offense may be increased by not more than \$1,000 and the maximum term of imprisonment prescribed by law for the offense may be increased by not more than 6 months; for a felony offense, the maximum term of imprisonment prescribed by law for the offense may be increased by not more than 5 years.

The House amended and sent to the Senate H.4378 which revises the magistrate system in South Carolina. This comprehensive bill was reported favorable with amendment from the House Judiciary Committee, amended on the House floor, and then committed to the House Ways and Means Committee. The bill, as amended by the House, brings magistrates under the SC Court Administration as part of a unified court system and requires magistrates to have a two year associate degree as of 5/1/2002 and a four year baccalaureate degree by 5/1/2006 (although a grandfathering provision exempts any magistrate serving on 7/1/98 from these provisions). The bill also requires magistrates to observe 10 trials before presiding over a trial. Magistrates would be paid by the state through the SC Court Administration, with three base categories for salaries; depending on the population of the county where the magistrate is located. Magistrates in counties of 150,000 or more would be paid 60% of a circuit court judge's salary; for counties between 50,000 and 149,000, magistrates would be paid half of a circuit judges salary; and for counties below 50,000, magistrates would be paid 40% of a circuit court judge's salary. Additionally, magistrates would not be paid 100% of the base salary until after four years in office. The bill includes a provision requiring the SC Court

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Administration to review and approve the county's designation of full and part-time magistrates, and retains a provision in current law that allows a part-time magistrate to be paid an hourly wage. The bill also increases the civil action filing fee for actions where damages or the amount claimed exceeds \$1000 from \$25 to \$50, increases the fee for landlord-tenant cases from \$10 to \$40, and raises the costs charged by the court for writing bad checks from \$20 to \$40. The House amended this bill by striking a section which would make magistrates state employees and eligible for participation in the SC Police Officers Retirement System. The House amendments also include: raising the filing fee on landlord-tenant proceedings from the current \$10 to \$20; raising the fee for issuing a summons and a copy for the defendant, and for giving judgement with or without a hearing in civil actions from \$25 to \$45; raising the administration fee liability for the party applying for a warrant to a maximum \$41 if the case is dismissed for want of prosecution (current law provides a maximum \$20 liability); and raising a defendant's liability for court costs for drawing and uttering a fraudulent check to a maximum of \$41. Also, the House amended the bill to require that magistrates' base salary increases must be provided by the county in an amount equivalent to the pay increase percentages for state employees, plus any legislatively-provided bonuses provided through the annual appropriations act. The House amended the bill to provide that, in counties with more than one full-time magistrate, the term of office for chief magistrate is two years, and the office must be rotated among the magistrates as determined by court administration. The House also allowed concurrent civil jurisdiction for magistrates on specified legal actions which do not involve over seven thousand five hundred dollars (as opposed to the current cap of five thousand dollars on these itemized legal actions).

The House amended, debated, and recommitted to the Judiciary Committee H.3569 pertaining to public nudity. The bill provides penalties for public nudity and establishes certain exceptions (locker rooms, public shower facilities, breast feeding, etc.). Penalties are established for businesses which allow for on-premises nudity.

The House recommitted to the Ways and Means Committee, Joint Resolution H.4682 which proposes amending the South Carolina Constitution to authorize the state to conduct a lottery, the proceeds of which would be used for scholarships for attendance at the state's postsecondary institutions.

The House amended and sent to the Senate H.4971. This bill requires the Department of Social Services (D.S.S.) to provide notice of a hearing concerning child custody or protective services to the foster parent, the preadoptive parent, or the relative who is providing care for a child. Providing notice does not confer on the foster parent, preadoptive parent, or relative the status of a party to the action. The bill specifies when reasonable efforts must be made and when they may be terminated in working with families and children and specifies the conditions under which D.S.S. must initiate or join in a proceeding for termination of parental rights. The bill prohibits the placement of a child in foster care with a person who has pled guilty or nolo contendere or who has been convicted of a felony drug-related offense under the laws of this State. The bill states that the family court may order the termination of parental rights upon a finding that the child has been in foster care under the responsibility of the State for 15 of the most recent 22 months. Parental rights may be terminated if the physical abuse of a child resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo

contendere to committing, aiding, abetting, conspiring to commit, or soliciting an offense against the person, criminal domestic violence, criminal domestic violence of a high and aggravated nature, or the common law offense of assault and battery of a high and aggravated nature.

The House returned **S.130** to the Senate with amendments. This bill completely revises the Pharmacy Practice Act, which governs the operation of pharmacies and the practice of pharmacists. The bill incorporates most of the current practice act and adds several significant changes to and clarifications of current law. The bill defines and establishes restrictions and minimum standards for "compounding." A definition is also added for the "practice of pharmacy," to include patient counseling and any acts or services necessary to provide pharmacy care and drug therapy management. The bill amends the composition of the Board of Pharmacy. Presently, the board is comprised of 8 members appointed by the Governor with the advice and consent of the Senate. One member must be a member of the public, six members must be pharmacists representing each of the six congressional districts, and one member must be a pharmacist from the State at Large. **S.130** provides that, if no hospital pharmacist is selected from the six congressional districts, the at-large pharmacist member must be a hospital pharmacist. The bill requires the Board of Pharmacy to create a registry for pharmacy technicians who perform pharmacy functions under the supervision of a pharmacist. In addition, the bill allows the Board to approve pharmacy technician training programs but does not require pharmacy technicians to be trained in these programs. The bill requires the pharmacist-in-charge of each pharmacy to develop and implement written policies and procedures to specify the duties to be performed by pharmacy technicians. The bill establishes pharmacist-to-technician ratios from institutional and regular pharmacies. The bill also establishes requirements for pharmacists and facilities for nuclear/radiologic pharmacy practice. A provision is included to cover extraordinary circumstances in which the Governor declares a "State of Emergency." This provision allows a pharmacist to dispense a one-time emergency refill of up to a 15 day supply of a non-controlled substance medication. It also allows a pharmacist who is licensed in a state other than South Carolina to dispense medications if the pharmacist can verify current licensure and is involved in a legitimate relief effort during the emergency. The bill adds a provision to clarify that nothing in the act mandates payment of insurance benefits for pharmacy goods or services.

The House amended and sent to the Senate **H.3069**. This bill provides a \$15,000 maximum, nonrefundable tax credit for a taxpayer's cash investment in a qualified South Carolina film enterprise. The bill also provides a maximum \$100,000, nonrefundable tax credit for construction and equipping of a motion picture production facility in South Carolina in which the taxpayer has an ownership interest. The House amended the bill by revising the tax credit offered in the bill to 33% (but not more than \$15,000) of a taxpayer's investment in a qualified SC motion picture project. The House also amended the bill to provide that the credit is allowed for a taxable year beginning in the calendar year the project is registered with the SC Film Office as a qualified SC motion picture project, pursuant to criteria provided in the legislation. The House also amended the bill to provide a nonrefundable 33% tax credit, under certain conditions, for the construction or conversion and equipping of a motion picture production facility in SC in which the taxpayer purchases an ownership interest with the taxpayer's investment. The House also revised the bill so as to: allocate credits allowed for construction and equipping of certain production facilities to partners, limited liability company members,

and subchapter "S" corporation shareholders; limit the reduction of the taxpayer's total SC income tax liability as a result of these credits and any other credits, to 50%; provide definitions for '*investment*,' '*motion picture company*,' '*motion picture production facility*,' '*motion picture project*,' and '*qualified SC motion picture project*.' The House also added a provision requiring the Department of Revenue to report on all tax credits earned pursuant to this bill, and requiring the Board of Economic Advisors to conduct a cost-benefit analysis of these credits after the first three years the credits are allowed and report its findings to the House Ways and Means Committee and to the Senate Finance Committee.

The House amended and sent to the Senate H.3826. This bill requires that, to the extent that the General Assembly appropriates funds for the use of veterans' organizations, it must appropriate funds for the use of the Vietnam Veterans of America, Inc., in a like amount and under the same conditions. The bill also requires that the appropriation for the Vietnam Veterans of America, Inc. must be in addition to amounts previously appropriated for other veterans' organizations. The House amended the bill to require that the provisions of the bill begin in Fiscal Year 1999-2000.

The House amended and sent to the Senate H.4942. This bill prohibits the use of an inmate as an interpreter in a criminal proceeding in which a party to the proceeding does not speak English. In such cases, the bill requires the use of an interpreter, certified by the court, or an instructor from an institution of education.

The House amended and sent to the Senate H.4446, which concerns copies and reproduction of bank records related to education loans and their admissibility in court. The bill states that an adequate copy of the original promissory note, check, draft, or record must be treated as an original record for the purpose of its admissibility into evidence, provided that the original document otherwise qualifies as a business record pursuant to the S.C. Uniform Business Records as Evidence Act or the appropriate state or federal rules of evidence. The amended bill deletes the requirement that a custodian or other qualified witness certify that the printed reproduction is a true and correct copy of the original.

The House amended and sent to the Senate H.4975. This bill pertains to legal restrictions on parking near and driving close to fire trucks and other fire apparatus. The bill broadens language so as provide that the restrictions apply to any emergency vehicle responding to an emergency rather than to a fire apparatus that is responding to a fire alarm. The House amended the bill so as to provide that the restrictions on motorists following emergency vehicles pertains to a fire apparatus, only. This amendment allows, for instance, a motorist to follow behind an ambulance which is carrying a loved one to the hospital.

The House amended and sent to the Senate H.4853. This bill clarifies the percentage of exemption allowed for motor fuel purchased for travel on the highway and for operation of equipment. The bill also clarifies what is considered to be "power take-off equipment" for purposes of exemption from tax on motor fuel. The bill provides that kerosene used as heating oil or used in equipment not licensed as a motor vehicle qualifies for the exemption from tax on motor fuel, as does taxable motor fuel used in "transportation of students for state-funded institutions of higher learning." The bill also makes technical corrections and repeals provisions of the *SC Code* that are no longer applicable relating to temporary permits and registration

cards for motor carriers. The House amended the bill by eliminating the subsection regarding the percentage of exemption allowed for motor fuel purchased for travel on the highway and for operation of power takeoff equipment. The House also revised wording in the bill to clarify that the exemption is also for motor fuel purchased for transportation of students by state-funded institutions of higher learning.

The House amended and sent to the Senate H.4570. This bill provides that the purchase price paid at the end of the term of a consumer automobile lease if the sales tax has already been paid on the lease, is not included in the definition of "gross proceeds of sales," and is not subject to sales tax. The House amended the bill by striking all after the enacting words and inserting a provision that the purchase price paid by the lessee during or at the end of the term of a consumer automobile lease pursuant to the provisions of the lease to the extent that the sales tax has already been paid on the lease pursuant to current law, is not included in the definition of "gross proceeds of sales," and is not subject to sales tax. The amendment also provides that when the lessee purchases the automobile during or at the end of the term of the lease, any sales tax remaining to be paid by the lessee on the purchase price is due and payable at that time. The House also amended the bill so as to make it effective upon the signature of the Governor.

The House sent to the Senate H.4959. This bill eliminates a taxpayer's right to elect to defer the annual retirement income deduction until the year in which the taxpayer reaches age 65. The bill allows an annual deduction of up to \$3,000 of retirement income and up to \$10,000 beginning in the year the taxpayer reaches age 65. The bill also provides that beginning for the year in which a taxpayer reaches age 65, the taxpayer is allowed an annual deduction of \$11,500 reduced by the retirement income deduction. The bill also provides for claiming this deduction on joint returns.

The House sent to the Senate H.3685 which provides a definition for products which may be lawfully labeled and sold as "peat" and establishes penalties for selling products misrepresented as peat. The legislation targets the practice of selling as peat, a product in which filler materials have been added to pure peat, defined as "partially carbonized vegetable tissue formed by partial decomposition of various plants in water." An individual who violates the provisions is guilty of a misdemeanor, punishable with a five hundred dollar fine or ninety days imprisonment.

The House sent to the Senate H.5073 which expands the definition of the term "Children and adolescence in need of mental health treatment" to cover children and adolescents between the ages of 18 and 20 if they are clients of, committed to the custody of, or in the legal custody of a state agency. Now, "Children and adolescence in need of mental health treatment" means children and adolescents under the age of 18 in a residential treatment facility. For adolescents at the Department of Juvenile Justice (DJJ) who are transferred to the Department of Mental Health (DMH) for treatment, DMH is responsible for providing appropriate out-of-home treatment sites if the adolescents remain committed to DJJ.

The House recommitted to the Judiciary Committee H.4645 which revises the size of alcoholic liquor containers which a retail dealer is permitted to possess.

The House refused to concur in Senate amendments to H.4799 which pertains to the use of shrimp boat drag nets off the coast of Kiawah and Seabrook Islands.

SENATE

The Senate amended and returned to the House S.284. This bill requires the Secretary of State to monitor all elected or appointed state boards and commissions and to publicize vacancies, expired terms, and those terms expiring within one year on a semiannual basis statewide. The amended bill also devolves the duties, functions, and responsibilities of the Public Charities Section of the office of the Attorney General upon the Secretary of State's office on July 1, 1998. All personnel originally transferred from the Secretary of State's office and still employed by the Attorney General in the Public Charities Section, appropriations, and full-time equivalent positions of the Public Charities Section also would be transferred to the Secretary of State's office on July 1, 1998. The Senate amended the bill to require the Secretary of State to notify each registered charitable organization that the Secretary of State is the administrator of the "S.C. Solicitation of Charitable Funds Act" and that registration must be filed with the Secretary of State.

The Senate amended H.3760 and returned the bill to the House. This bill requires a female who is pregnant, married, and under age 18 to complete a pregnancy prevention education course. The Senate amended the bill to require parental notification if birth control devices are given to a woman under the age of 18. The Senate also amended the bill to require the course to be specified by the Department of Social Services and conducted without charge, and to require in the course material a statement that "abstinence outside of marriage and sexual relations with an uninfected marriage partner is the only absolute way to prevent sexually transmitted diseases and to prevent pregnancy." The Senate amendment also creates a new chapter creating the County Grants Fund for Adolescent Pregnancy Prevention Initiatives. The fund must be administered by the department and county governments as provided in this new chapter. The stated purpose of the fund is to support local efforts to prevent early sexual activity and to measurably reduce the rate of adolescent pregnancy in each county and in the State and to ensure that these efforts reflect local community values.

The Senate amended S.22 and returned the bill to the House. As amended, the bill states that a public body may but is not required to exempt from disclosure certain matters that are currently exempt (including trade secrets, law enforcement records, and certain compensation paid by public bodies). The bill further specifies that a public body may exempt from disclosure documents incidental to a proposed contractual arrangement and documents incidental to proposed sales or purchases of property; however, these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased. A contract for the sale of real estate will remain exempt from disclosure until the deed is executed. Confidential proprietary information provided to a public body for economic development or contract negotiations purposes need not be disclosed. The bill also exempts from disclosure all

matters gathered by a public body during a search to fill an employment position, except the materials relating to the final three applicants (excluding their tax returns, medical records, or social security number). Information of a proprietary nature collected by the faculty or staff at an educational institution is exempt from disclosure. The bill permits a public body to hold a private meeting to receive legal advice where the advice relates to a pending, threatened or potential claim or other matters covered by the attorney-client privilege. The bill also specifies when a public body may hold a meeting closed to the public and that no action may be taken in executive session except to adjourn or to return to public session. Furthermore, the members of a public body may not commit the public body to a course of action by a polling of members in executive session.

The Senate returned H.5075 to the House. This bill authorizes the Office of Indigent Expense to use up to \$500,000 of the death penalty trial fund to pay fees in noncapital cases if the conflict fund is exhausted.

The Senate also gave third reading to the following bills and sent them to the House: S.1078, which provides that the Redevelopment Authority may acquire and dispose of both real and personal property in connection with federal defense sites; S.1168, which includes the putative father as an individual who may institute an action to establish paternity; S.758, which creates the felony crime of assisting suicide; S.1047, which creates the county grants fund program for adolescent pregnancy prevention initiatives; S.995, which provides for the licensure and regulation of check cashing services; S.1170, which provides for the reorganization of a domestic or foreign mutual insurer as a domestic mutual insurance holding company system; S.981, concerning the licensure of community residential care facility administrators; S.1120, which exempts from sales tax the sale or resale or the exchange of an interest in a vacation time sharing plan and a vacation multiple ownership interest; S.1210, which would create an exception to the waiver of immunity under the S.C. Tort Claims Act for liability caused by an incorrect date produced or generated by a state owned or operated computer unless the error was caused by the gross negligence of the operator; S.1133, which would authorize tutors in public schools to receive a state tax credit or a tuition credit; S.1075, concerning the size of containers containing alcoholic liquors which a retailer may keep in his possession; S.844, relating to the protection of confidential information submitted to or compiled by the Jobs Economic Development Authority; S.1179, authorizing the Commissioner of Banking to examine the Carolina Capital Investment Corporation; S.1074, regulating practices between wine manufacturers, wholesalers, and retailers; S.1173, allowing local governments to approve and erect obstructions to protect property from vandalism; S.1212, relating to capital, surplus, reserves, and other financial matters regarding insurance companies; S.1215, relating to the rights a policyholder has against the reinsurer; S.1162, concerning the standards applicable to juvenile detention facilities; S.718, which prohibits the practice of psychology without a license and specifies what acts constitute such practice; S.951, relating to the licensure of Psycho-Educational Specialists; S.1128, relating to professional counselors, associate counselors, and marital and family therapists; and S.1067, which concerns a member of the State Retirement System receiving credit for out-of-state service.

S.1000 also received third reading in the Senate. This joint resolution proposes a constitutional amendment to raise the age of consent to sexual intercourse for an unmarried person from age 14 to age 16.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The full House Agriculture, Natural Resources and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee adjourned debate on H.4954, which provides that an out-of-state motor home dealer who is licensed and has a permanent location in another state may show and sell motor homes in South Carolina under certain conditions. The committee also adjourned debate on H.4956, which amends the procedure for expenditure of "C" Funds (the proceeds from two and sixty-six one-hundredths cents a gallon of the tax on gasoline).

JUDICIARY

The House Judiciary Committee amended and gave a favorable recommendation to H.4943. This bill states that when a person protests an election in which he was a losing candidate on any grounds (other than on the disparity of the number of ballots cast), that candidate must pay all costs incurred by the winning candidate associated with the protest process to the winning candidate if the board hearing the protest determines that the protest is frivolous and without merit.

The Judiciary Committee amended and reported favorably on H.5007. This bill exempts individual retirement accounts, individual retirement annuities, and individual retirement trusts from bankruptcy proceedings or attachment, levy, and sale.

The Judiciary Committee passed H.4902 on to the House floor. This bill deletes the current provision of law stating that a limited liability company (LLC) is dissolved and its business must be wound up if a member who is also a manager or any member of an at-will company dissociates himself from the LLC, unless the remaining members agree to continue or the business is governed by a right-to-continue provision in the operating agreement.

The Judiciary Committee gave a favorable report on H.4952. This legislation applies only to special purpose districts which have unelected governing bodies but are presently authorized by law to levy millage for operation and maintenance up to a given amount and did impose this levy in fiscal year 1997-98. For these special purpose districts, beginning with the levy for fiscal year 1999, ad valorem property tax millage must be levied in the amount equal to the millage levy imposed in fiscal year 1998.

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The special purpose districts may request the county election commission to conduct a referendum to propose a modification in the district's tax millage. Special purpose districts located within a single county may modify their millage limitations provided the modification is approved by the governing body of the district and the governing body of the county.

The Judiciary Committee amended and sent to the floor H.4983. This bill concerns persons who knowingly file false police reports. The bill provides that a person who falsely reports a felony is guilty of a felony and, upon conviction, must be imprisoned up to 5 years and/or fined up to \$1,000. A person who falsely reports a misdemeanor is guilty of a misdemeanor and must be imprisoned up to 30 days and/or fined up to \$500. In imposing a sentence under this section, the judge may require the offender to pay restitution to the investigating agency to offset costs incurred in investigating the false police report.

The Judiciary Committee gave a favorable recommendation to H.4462. The bill authorizes the use of deadly force against another person when a person reasonably believes the other person is using or attempting to use unlawful force in a motor vehicle, or the other person is committing or attempting to commit a burglary or robbery of a motor vehicle. As amended, the bill provides that when the death of a person proximately results from injuries received during the theft of a motor vehicle stolen pursuant to the use or attempted use of unlawful force against the operator of the motor vehicle (or an individual present in the motor vehicle), then the person using unlawful force is guilty of murder.

The Judiciary Committee gave a favorable recommendation to H.4942 which was approved by the full House (see House Week in Review, this issue).

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met Tuesday, April 28 and reported favorable on H.3248 and S.843.

H.3248 requires a hospital, nursing home, or other home health care facility that the Department of Health and Environmental Control (DHEC) licenses to include in a patient's record reports of any incident that involves or is related to the diagnosis, care, or treatment of the patient. This includes reports of misdiagnosis or any other mistakes.

S.843 requires a student who is sent home from school for having pediculosis (head lice) to present evidence of treatment and submit to a physical screening (with a designated school official) showing that the student no longer has head lice before the student returns to school. The bill also requires DHEC to make products or vouchers for products for treatment of head lice available free of charge to families of children in the public school system who receive Medicaid or free or reduced school meals.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.1013 SOUTHERN DAIRY COMPACT ACT OF 1997 Sen. Lander

This bill authorizes the Governor to execute an Interstate Dairy Compact with other states to assure the continued viability of dairy farming in the South and to assure consumers of an adequate, local supply of pure and wholesome milk. The bill creates the Southern Dairy Compact Commission to be comprised of delegates from each state in the region. The Commissioner of Agriculture is the Compact administrator for South Carolina. All actions taken by the Commission must be by majority vote. The bill provides for the powers and duties of the Commission and allows the Commission to examine the books of any regulated person relating to his or her milk business. The bill authorizes the Commission to borrow money for start-up and regular costs. A negotiated compact will be enforceable when enacted into law by any three of the following states (and with the consent of Congress): Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. A state may withdraw from the compact if that state gives a one year written notification of its intent to withdraw.

S.603 LIMITED IMMUNITY FROM KAYAKING AND CANOEING ACCIDENTS

Sen. McConnell

This bill provides limited immunity from liability for death or injury for a kayaking or canoeing activity sponsor or professional. The sponsor or professional can be held liable if: (1) the professional or sponsor provided the equipment and should have known that the equipment was faulty and the faulty equipment caused the accident; (2) the professional or sponsor provided the equipment and failed to make reasonable efforts to determine the ability of the participant to use and manage the equipment safely based on the participant's representations of his ability; (3) the professional or sponsor committed an act or omission that is wilful or wanton disregard for the safety of the participant and that act or omission caused the injury, and; (4) the professional or sponsor intentionally caused the injury. A kayak, canoe, or raft professional or activity sponsor must provide notice of immunity from liability by placing a warning sign in the place of business or by requiring participants to sign a printed form releasing the sponsor or professional from liability. The bill provides the language for the warning sign or release.

EDUCATION AND PUBLIC WORKS

S.1133 THE SCHOOL TUTORING ACT Sen. Courtney

This bill enacts the "School Tutoring Act," which entitles an individual who provides volunteer tutoring services in a public school and who meets certain other requirements specified in the bill, to a specified tax credit or tuition credit.

JUDICIARY

S.757 SPECIAL PURPOSE DISTRICT ELECTIONS Sen. Ravenel

This bill would allow the voters residing in a special purpose district with an appointed board to request by petition a referendum on the question of electing the district's governing body by popular vote. The petition must contain the referendum question and the signature of at least fifteen percent of the qualified electors of the district. The original petition must be delivered to the county board of voter registration in the county in which the special purpose district is located. The petition must be submitted to the board before August first of an even-numbered general election year to be considered for inclusion on the ballot in that year. If the petition is verified as complete, the question must be placed on the general election ballot in November of that same year. The costs associated with the referendum must be paid by the special purpose district.

The bill also states that the governing body of a special purpose district may by resolution (adopted by majority vote of all members of the governing body) request a referendum on the question of the election of the governing body members. If a majority of electors from the special purpose district voting in the election vote in favor of the election of members of the district's governing body, the county election commission must conduct non-partisan elections. An appointed member of the district's governing body may become a candidate for a seat on the district's governing body.

S.1157 DIVISION OF PUBLIC CHARITIES Sen. Leventis

This bill devolves the duties, functions, and responsibilities of the Public Charities Division of the office of the Attorney General upon the Secretary of State's office on July 1, 1998. The legislation also provides that the Secretary of State will administer the "South Carolina Solicitation of Charitable Funds Act."

S.758 FELONY CRIME OF ASSISTING SUICIDE Sen. Fair

This bill creates the felony crime of assisting suicide. Violators who are convicted must be imprisoned not more than 15 years and/or fined not more than \$100,000.

S.1168 INITIATING ACTIONS TO ESTABLISH PATERNITY Sen. McConnell

This bill states that an action to establish the paternity of an individual may be brought by a person who is the presumed, inferred, or alleged legal father.

S.1074 ALCOHOLIC BEVERAGE CONTROL LAWS CONCERNING WINE Sen. Saleeby

This bill regulates certain practices between wine manufacturers, wholesalers, and retailers and provides for other practices applicable to the sale of wine.

S.1210 IMMUNITY FOR COMPUTER ERROR Sen. Courtney

This bill provides that a governmental entity is not liable for a loss caused by an incorrect date that is produced, calculated, or generated by a computer or other information system owned or operated by the State of South Carolina unless the loss is caused by the gross negligence of the operator.

LABOR, COMMERCE AND INDUSTRY

S.1167 "SOUTH CAROLINA ELECTRONIC COMMERCE ACT" Sen. Holland

This bill expressly states that its purpose is to facilitate and promote electronic commerce and online government by clarifying the legal status of electronic records and electronic signatures in the context of writing and signing requirements imposed by law. The bill promotes the development of the legal and business infrastructure which is necessary to encourage public confidence in the validity, integrity, and reliability of electronic commerce and online government.

S.995 CHECK CASHING SERVICES Sen. Short

This bill provides for the licensure and regulation of check cashing services by the State Board of Financial Institutions.

S.1170 DOMESTIC MUTUAL INSURANCE HOLDING COMPANY SYSTEM

Banking and Insurance Committee

This bill authorizes a mutual insurance company to form holding companies and sell shares for a stock company subsidiary. Under the legislation, a mutual insurer could reorganize as two new companies: a holding company and a stock insurance company, which would operate together. In such an arrangement, the holding company, comprised of policy holders, could not issue stock, but would own a majority of the voting shares in the stock insurance company. The stock insurance company would be authorized to raise capital by selling a minority interest of its voting stock. Under current law, a mutual insurer cannot sell stock.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.1163 ANNUAL JAIL AND PRISON INSPECTION REPORTS Sen. Bryan

This bill revises the lists of persons who must receive copies of inspection reports prepared by the Jail and Prison Inspection Division of the South Carolina Department of Corrections. Currently, prison inspection reports must be filed with the governing body of the political subdivision having jurisdiction of the facility, the governing body of each political subdivision involved in a multi-jurisdictional facility, the State Fire Marshal, DHEC, and the legislative delegation of the county where the facility is located. **S.1163** specifies that only the chairman of the political subdivision involved, the administrator, manager, or supervisor for the political subdivision, and the administrator or director of the inspected facility must receive the reports.

S.981 LICENSURE OF COMMUNITY RESIDENTIAL CARE FACILITY ADMINISTRATORS Sen. Giese

This bill revises the requirements for licensure of community residential care facility administrators. Currently, the Board of Long Term Health Care Administrators may license a person as an administrator with only a high school education. The bill requires a person with only a high school diploma or its equivalent to complete two years of on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator before July 1, 2000. After July 1, 2000, a community residential care facility administrator must obtain an associate degree and complete one year of on-site experience under the supervision of a licensed residential care facility administrator. A person who has obtained (1) a health related baccalaureate degree and at least two years work experience in a health related field (other than a community residential care facility) or (2) a non-health related baccalaureate degree with at least three years work experience in a health related field (other than a community residential care facility), and has successfully completed the administrators' examination and paid all fees, must complete at least three months of on-site work experience under the supervision of a licensed community residential care facility administrator.

WAYS AND MEANS

H.5097 SC EMPLOYMENT SECURITY COMMISSION - WARRANTS OF EXECUTION Rep. Baxley

This bill authorizes the SC Employment Security Commission (the commission) to collect default payments from an employer pursuant to warrants of execution for nonpayment (of contributions, interest, penalties, assessments, and costs) by levying upon the property securing the warrant. The bill authorizes the commission to contract with a collection agency for collecting these delinquent payments. The bill also requires the commission or its authorized representative to file with the Clerk of Court in which the employer does business, a copy of the execution and to proceed upon the warrant in all respects. Current law provides that the commission issues the warrant of execution, and the county sheriff or county tax collector must file the execution and levy upon and sell the property for payment of the delinquent amount. The bill confers upon the commission and its authorized representative, powers held by the Department of Revenue (DOR) for collection of these amounts.

S.1047 ADOLESCENT PREGNANCY PREVENTION Sen. Jackson

This bill establishes the County Grants Fund for Adolescent Pregnancy Prevention Initiatives, to be administered by the SC Department of Social Services (the department) and county governments, with a purpose of supporting local efforts to prevent early sexual activity and reducing the rate of adolescent (age 19 or under) pregnancy. The bill provides for distribution of monies that are appropriated annually to the fund by the General Assembly, as follows: 10% of the money to evaluate the effectiveness of each initiative and the fund, using guidelines provided in the bill; 15% allocated evenly among all counties; 15% allocated to counties based on the size of their adolescent population; 20% allocated to counties based on their rate of adolescent pregnancy; 40% allocated to counties based on their number of adolescent pregnancies. The bill allows a county to retain up to 5% of the money it receives to cover costs of administering the fund, and money must be allocated by the county within two

years of receipt. The bill provides circumstances under which the money may not be used, including but not limited to major equipment purchase, abortion, and purchase of inpatient care. The bill makes provision for a county which chooses not to assume responsibilities and duties assigned to county governments by the bill, and makes provision for a county government which uses money intended for the purposes of the bill in a manner not authorized in the bill. The bill makes provisions, including minimum standards for applicants, for local public or private agencies or organizations to apply to operate an adolescent pregnancy prevention initiative. The bill provides minimum standards for continuation of funding for a local teen pregnancy prevention initiative, and provides requirements for the Department of Social Services, county governments, contractors, and the Department of Health and Environmental Control concerning implementation of the provisions and purposes of the bill.

S.1078 MILITARY FACILITIES REDEVELOPMENT LAW Sen. Ryberg

This bill amends the "Military Facilities Redevelopment Law," which concerns the State's redevelopment authority to acquire and dispose of federal military installations. The bill broadens the authorities in the Act to include, in addition to real property, "personal property," which is all goods, classified as equipment, used or bought for use primarily in the operation of the federal defense facility, not to include certain specified inventory, consumer goods, or farm products. The bill also broadens the sites included in the Act by adding "other federal defense sites," in addition to military installations as currently provided in the Act. Although amended by the Senate, **S.1078** was originally drafted as a companion bill to **H.4981** (Rep. Beck), which is pending in the House Ways and Means Committee.

S.1120 EXEMPTION FROM SALES TAX Sen. Elliott

This bill exempts from sales tax the sale or resale or the exchange of an interest in a vacation time sharing plan and a vacation multiple ownership interest.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpitr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.